

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/555,470
Applicant : Roger R. Dzwonczyk et al.
Filed : 11/02/2005
Tech. Center/Art Unit : 3736
Examiner : Michael C. Stout
Attorney File No. : OSU GEN 2949 PCT US
Customer No. : 002555
Confirmation Number : 4111
For : Measuring Human Heart Muscle Viability Using
Myocardial Electrical Impedance

I hereby certify that this correspondence is being transmitted via the Office Electronic Filing System (EFS) on 21 July 2009.
/Frank H. Foster/

REQUEST FOR RECONSIDERATION

Applicants' undersigned attorney requested an interview with the examiner and submitted an interview request form and an explanation of matters to be discussed. Through telephone conversations, the telephone interview was scheduled for and held on July 8, 2009 beginning at 12:30 PM with the attendance of the examiner's Supervisory Patent Examiner Max Hindenburg. The matters that applicants' attorney requested be discussed were discussed. The examiner suggested the filing, by all of the co-inventors, of an additional declaration with additional statements that the examiner described. Such a declaration that is believed to provide the statements described by the examiner is filed herewith. Mr. Hindenberg suggested filing it with a request for reconsideration.

Therefore, applicants request reconsideration and respectfully submit that the totality of the declarations filed in this case meet the requirements of the MPEP for removal of the two papers as prior art. Furthermore, the declaration filed herewith is an unequivocal statement that satisfies the statement in MPEP 716.10 that "An uncontradicted 'unequivocal statement' from

the applicant regarding the subject matter disclosed in an article, patent, or published application will be accepted as establishing inventorship.” It also satisfies the statement in MPEP 2132.01 that “The rejection can also be overcome by submission of a specific declaration by the applicant establishing that the article is describing applicant’s own work.”

Therefore, reconsideration and allowance are respectfully requested.

The Commissioner is authorized to charge Deposit Account No. 13-3393 for any insufficient fees under 37 CFR §§ 1.16 or 1.17, or credit any overpayment of fees.

Respectfully submitted,

A handwritten signature in black ink that reads "Frank H. Foster". The signature is fluid and cursive, with the first and last names being more prominent.

21 July 2009
Date of Signature

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